

OLL 34-2577  
20 July 1984

MEMORANDUM FOR: General Counsel

FROM:

STAT

Chief, Legislation Division  
Office of Legislative Liaison

SUBJECT: GAO Access to CIA Records

1. Attached is a short GAO memorandum recently provided to us which contains a provocative summary of GAO's authorities with respect to reviewing CIA records and files. The memorandum concludes that "if material GAO seeks access to is not related to an unvouchered expenditure or is not certified by the President under 31 U.S.C. 3524(c), it can not be withheld."

2. This GAO memorandum was provided to us so that the authorities and conclusions cited by GAO could be reviewed and an appropriate response thereto prepared by the Agency's attorneys. The GAO memorandum conveniently omits, for example, any reference to the DCI's authority to protect intelligence sources and methods in reaching the above conclusion.

3. I will be happy to work with and provide whatever assistance your office may require in preparing a response to this memorandum. Your cooperation on this matter is much appreciated.

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Attachment

OLL:LEG:SWH:sm (20 July 1984)

Distribution:

Original - Addressee

- 1 - OLL Chrono
- 1 - LEG Subject (GAO Access)
- 1 - SWH Signer
- 1 - D/OLL
- 1 - DD/OLL

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Under 31 U.S.C. 716, GAO generally has access to the records of federal agencies. Under 50 U.S.C. 403j(b) the Director of CIA can approve unvouchered expenditures for objects of a confidential, extraordinary, or emergency nature. Such expenditures are not subject to review by GAO. This exemption for unvouchered expenditures of the CIA was repeated as part of the special access authority granted to GAO <sup>in 1980</sup> for reviewing unvouchered accounts (31 U.S.C. 3524(d)). In addition, 31 U.S.C. 3524(c) provides an exemption from GAO access for financial transactions about sensitive foreign intelligence and counter-intelligence. However, only the President may invoke this exemption. Consequently, if material GAO seeks access to is not related to an unvouchered expenditure or is not certified by the President under 31 U.S.C. 3524(c), it can not be withheld.

A related but separable issue to access rights is access enforcement. Here, under the General Accounting Office Act of 1980, GAO is authorized to institute legal action to compel the production of documents, except in certain limited circumstances. Included in the exemptions from judicial enforcement are activities designated by the President as foreign intelligence or foreign counter-intelligence; instances where the requested material is specifically exempted from disclosure to GAO by statute; and instances where the requested material falls under either of two Freedom of Information Act exemptions related to interagency or intra-agency memoranda or investigatory documents compiled for law enforcement purposes. Either of these two <sup>FOIA</sup> exemptions can be invoked only if accompanied by a presidential or Director, OMB, certification that disclosure of such material could be expected to substantially impair the operations of the Government (31 U.S.C. 716(d)).

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This provides enough references to get CIA attorneys started. I'll be out of town 7/16-20 so if you need to get in touch on the [ ] research projects assignment please call my boss, [ ]. Any other matters can probably wait until I'm back on 7/23. Also enclosed is the Pressler request letter and the distribution instructions from the [ ] report. Thanks

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Frank

P.S. - I just was told by the staff that Cherna. Banner wrote to the CIA on June 29<sup>th</sup> about the Guatemala assignment. If you need further info. or if anything breaks on that project, [ ]

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TRANSMITTAL SLIP		DATE
TO: <i>Steve</i>		
ROOM NO.	BUILDING	
REMARKS:  <i>FYI re GAO meeting Also, please look at the GAO "access" paper. What does it mean to us in terms of GAO request for NIEs, etc.</i>		
FROM:		
ROOM NO.	BUILDING	EXTENSION